



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/780,421 | 02/17/2004 | Ronald Van Der Wal | 134700-2 | 2031 |

7590 07/28/2006

Robert E. Walter
General Electric Company
One Plastics Avenue
Pittsfield, MA 01201

EXAMINER

WATKINS III, WILLIAM P

ART UNIT PAPER NUMBER

1772

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,421

Applicant(s)

DER WAL ET AL.

Examiner

William P. Watkins III

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 13-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 1772

DETAILED ACTION

1. Newly submitted claims 13-16 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the article of claims 1-12 can be made by a materially different method other than injection molding of claims 13-16 such as by thermoforming a blank as in Smarook (U.S. 3,919,379).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 13-16 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-3, 5-7 and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smarook (U.S. 3,919,379) in view of Fox et al. (U.S. 4,188,314).

Smarook teaches a crate for multiple containers, which may be made of polycarbonate (col. 15, lines 60-65, col. 17, lines 5-20 and Figure 8), which may be molded without frozen in strains by the use of annealing of the initial blanks. Fox et al. teach a polycarbonate and polyester blend that has the durability of polycarbonate, but that is easier to mold, is still transparent, and will tolerate a large amount of ultraviolet stabilizer (abstract, col. 2, lines 25-40). The instant invention claims a bottle crate made of a polycarbonate and polyester blend. It would have been obvious to one of ordinary skill in the art to have molded the crate of Smarook out of the polyester of Fox et al. in order to have ease of molding because of the teachings of Fox et al. It further would have been obvious to one of ordinary skill in the art to adjust the amount of UV stabilizer dependent on end use, given the teachings of Fox et al. that a large amount of stabilizer can be tolerated. No particular weight is given to the limitation of the crate being injection molded as it is not clear what difference if any there is in final product quality between the

product of the combination of the rejection and one that is injection molded.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smarook (U.S. 3,919,379) in view of Fox et al. (U.S. 4,188,314) as applied to claims 1-3 and 5-7 above, and further in view of Allen et al. (U.S. 4,786,692).

Allen et al. teaches a glycol modified polyester used with polycarbonate in order to get a lower molding temperature (abstract). The instant invention claims a crate made of polycarbonate and glycol modified polyester. It would have been obvious to one of ordinary skill in the art to have used the blend of Allen et al. in the crate of Smarook in view of Fox et al. to get a lower molding temperature because of the teachings of Allen et al.

5. Applicant's arguments filed 16 May 2006 have been fully considered but they are not persuasive.

Applicant argues that there is no advantage in molding from using the resins of Fox et al. The examiner disagrees, as noted at col. 2, lines 29-33, the resin of Fox et al. does not require pre-drying in order to be thermoformed, which is a molding

Art Unit: 1772

advantage. Applicant also argues that the injection molding of the instant article claims, produces an article without frozen in strains. As noted in the above rejection, the blank can be annealed before thermoforming to eliminate strain. Applicant also argues that there is no teaching of the claimed resin components being at 95% or more by weight of the resin. The examiner disagrees. Claim 5 of Fox et al. calls for up to 98% of the aromatic carbonate and as low as 1% filler. Regarding the rejection of claim 4, the lower molding temperature of Allen et al. is an advantage in that requires less energy to heat the resin for thermoforming.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened

Art Unit: 1772

statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

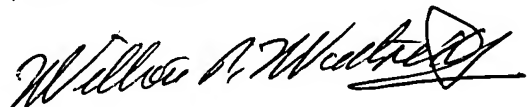
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WW/ww

July 24, 2006



WILLIAM P. WATKINS III
PRIMARY EXAMINER